

COOLEY LLP
MICHAEL G. RHODES (116127) (rhodesmg@cooley.com)
WHITTY SOMVICHIAN (194463) (wsomvichian@cooley.com)
KYLE WONG (224021) (kwong@cooley.com)
101 California Street, 5th Floor
San Francisco, CA 94111-5800
Telephone: (415) 693-2000
Facsimile: (415) 693-2222

Attorneys for Defendant Google Inc.

WYLY~ROMMEL, PLLC
Sean F. Rommel (*Pro Hac Vice*)
Email: srommel@wylyrommel.com
4004 Texas Boulevard
Texarkana, Texas 75503
Telephone: (903) 334-8646
Facsimile: (903) 334-8645

CORY WATSON CROWDER & DEGARIS, P.C.
F. Jerome Tapley (*Pro Hac Vice*)
Email: jtapley@cwcd.com
2131 Magnolia Avenue
Birmingham, Alabama 35205
Telephone: (205) 328-2200
Facsimile: (205) 324-7896

Plaintiffs' Co-Lead Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE GOOGLE INC. GMAIL LITIGATION

Master Docket No.: 13-MD-02430-LHK

THIS DOCUMENT RELATES TO:

**STIPULATION OF DISMISSAL WITH
PREJUDICE OF CERTAIN ACTIONS**

Dunbar v. Google Inc., Case No. 5:12-cv-03305-LHK (N.D. Cal.); *Scott et al. v. Google Inc.*, Case No. 5:12-cv-03413-LHK (N.D. Cal.); *Scott v. Google Inc.*, Case No. 4:12-cv-00614-CAS (N.D. Fla.); *Knowles v. Google Inc.*, Case No. 1:12-cv-02022-WMN (D. Md.); *Kovler v. Google Inc.*, Case No. 2:12-cv-06699-AB (E.D. Pa.); and *Fread et al. v. Google Inc.*, Case No. 5:13-cv-01961-LHK (N.D. Cal.)

///

///

STIPULATION OF DISMISSAL WITH PREJUDICE OF CERTAIN ACTIONS
5:13-MD-002430-LHK

1 Pursuant to Federal Rule of Civil Procedure, Rule 41(a)(1)(A)(ii), the below-identified
2 Plaintiffs and Defendant Google Inc. (collectively, the “Parties”) hereby stipulate to dismiss
3 with prejudice certain actions as follows:

4 WHEREAS, the following Plaintiffs filed individual complaints against Google:
5 (1) Keith Dunbar, *Dunbar v. Google Inc.*, Case No. 5:12-cv-03305-LHK (N.D. Cal.); (2) Brad
6 Scott and Todd Harrington, *Brad Scott and Todd Harrington v. Google Inc.*, Case No. 5:12-cv-
7 03413-LHK (N.D. Cal.); (3) Brent Matthew Scott, *Brent Matthew Scott v. Google Inc.*, Case
8 No. 4:12-cv-00614-CAS (N.D. Fla.); (4) Matthew Knowles, *Knowles v. Google Inc.*, Case No.
9 1:12-cv-02022-WMN (D. Md.); (5) Ronald Kovler, *Kovler v. Google Inc.*, Case No. 2:12-cv-
10 06699-AB (E.D. Pa.); and (6) Robert Fread, and Raphael Carrillo, *Fread, et al. v. Google Inc.*,
11 Case No. 5:13-cv-01961-HRL (N.D. Cal.) -- (all referred to hereinafter as “Stipulating
12 Plaintiffs.”).

13 WHEREAS, the following Stipulating Plaintiffs’ complaints were transferred by the
14 Judicial Panel for Multi-District Litigation to Judge Lucy H. Koh of the Northern District of
15 California (the “Court”) for coordinated proceedings entitled, *In re: Google Inc. Gmail*
16 *Litigation* (“MDL 2430”), Case No. 5:13-MD-02430-LHK: (1) Keith Dunbar, *Dunbar v.*
17 *Google Inc.*, Case No. 5:12-cv-03305-LHK (N.D. Cal.); (2) Brad Scott and Todd Harrington,
18 *Brad Scott and Todd Harrington v. Google Inc.*, Case No. 5:12-cv-03413-LHK (N.D. Cal.);
19 (3) Brent Matthew Scott, *Brent Matthew Scott v. Google Inc.*, Case No. 4:12-cv-00614-CAS
20 (N.D. Fla.); (4) Matthew Knowles, *Knowles v. Google Inc.*, Case No. 1:12-cv-02022-WMN
21 (D. Md.); (5) Ronald Kovler, *Kovler v. Google Inc.*, Case No. 2:12-cv-06699-AB (E.D. Pa.).

22 WHEREAS Stipulating Plaintiffs Fread and Carillo subsequently filed their case; and
23 on May 6, 2013, the Court ordered the *Fread Gmail Action* to be related to *In re: Google Inc.*
24 *Gmail Litigation* (“MDL 2430”), Case No. 5:13-MD-02430-LHK.

25 WHEREAS Google previously filed a counterclaim against Plaintiff Dunbar in *Dunbar*
26 *v. Google Inc.*, Case No. 5:12-cv-03305-LHK (N.D. Cal.).

27 WHEREAS Stipulating Plaintiffs subsequently filed a Consolidated Individual and
28 Class Action Complaint with the Court on May 16, 2013, alleging Google’s automated

1 scanning of email in its Gmail service violates various state and federal wiretapping laws,
2 including: (1) the Electronic Communications Privacy Act of 1985, 18 U.S.C. §§ 2510, *et seq.*;
3 (2) California's Invasion of Privacy Act, Cal. Penal Code §§ 630, *et seq.*; (3) Maryland Courts
4 and Judicial Proceedings Code Ann. §§ 10-402, *et seq.*; and (4) Florida Statute §§ 934.03,
5 *et seq.*

6 WHEREAS, Stipulating Plaintiffs subsequently filed a Consolidated Motion for Class
7 Certification seeking certification of various classes. On March 18, 2014, the Court denied the
8 class certification motion with prejudice, and Stipulating Plaintiffs sought interlocutory review
9 under Federal Rule of Civil Procedure 23(f). On May 12, 2014, the Ninth Circuit Court of
10 Appeals denied Stipulating Plaintiffs' Rule 23(f) petition.

11 WHEREAS, Stipulating Plaintiffs and Google have each considered the uncertainties of
12 further litigation, trial, and potential appeals in this matter; the costs, risks, and delays
13 associated with the litigation process; and the benefits of the proposed settlement; and the
14 Parties have entered into a settlement agreement to resolve their disputes.

15 WHEREAS, this stipulation does not concern any claims other than those of Stipulating
16 Plaintiffs.

17 WHEREAS Google does not admit any liability or wrongdoing of any kind and to the
18 contrary disputes all claims and allegations in Plaintiffs' individual and consolidated actions.

19 IT IS HEREBY STIPULATED

20 (1) Pursuant to FED. R. CIV. P. Rule 41(a)(1)(A)(ii) that the causes of actions and
21 claims of the Stipulating Plaintiffs as originally filed by them in *Dunbar v.*
22 *Google Inc.*, Case No. 5:12-cv-03305-LHK (N.D. Cal.); *Brad Scott and Todd*
23 *Harrington v. Google Inc.*, Case No. 5:12-cv-03413-LHK (N.D. Cal.); *Brent*
24 *Matthew Scott v. Google Inc.*, Case No. 4:12-cv-00614-CAS (N.D. Fla.);
25 *Knowles v. Google Inc.*, Case No. 1:12-cv-02022-WMN (D. Md.); and *Kovler v.*
26 *Google Inc.*, Case No. 2:12-cv-06699-AB (E.D. Pa.), are dismissed with
27 prejudice.

28 (2) Pursuant to FED. R. CIV. P. Rule 41(a)(1)(A)(ii) that the causes of action and

claims of the Stipulating Plaintiffs as alleged in Plaintiffs' First Amended Consolidated Individual and Class Action Complaint or as otherwise asserted in *In re: Google Inc. Gmail Litigation* ("MDL 2430"), Case No. 5:13-MD-02430-LHK are dismissed with prejudice.

(3) Pursuant to FED. R. CIV. P. Rule 41(a)(1)(A)(ii) and 41(c) that any counterclaims of Google against Plaintiff Dunbar, including the counterclaim asserted in *Dunbar v. Google Inc.*, Case No. 5:12-cv-03305-LHK (N.D. Cal.), are dismissed with prejudice.

(4) That the following matters be dismissed in their entirety: (1) *Dunbar v. Google Inc.*, Case No. 5:12-cv-03305-LHK (N.D. Cal.); (2) *Brad Scott and Todd Harrington v. Google Inc.*, Case No. 5:12-cv-03413-LHK (N.D. Cal.); (3) *Brent Matthew Scott v. Google Inc.*, Case No. 4:12-cv-00614-CAS (N.D. Fla.); (4) *Knowles v. Google Inc.*, Case No. 1:12-cv-02022-WMN (D. Md.); (5) *Kovler v. Google Inc.*, Case No. 2:12-cv-06699-AB (E.D. Pa.); and (6) *Fread, et al. v. Google Inc.*, Case No. 5:13-cv-01961-HRL (N.D. Cal.).

IT IS SO STIPULATED, THROUGH COUNSEL.

DATED: May 22, 2014

/s/ Whitty Somvichian
Whitty Somvichian
Attorney for Defendant Google Inc.

DATED: May 22, 2014

/s/ F. Jerome Tapley
F. Jerome Tapley
Plaintiffs' Counsel for Plaintiffs Keith Dunbar,
Brad Scott, Todd Harrington, Robert Fread, and
Raphael Carrillo

DATED: May 22, 2014

/s/ Richard M. Golomb
Richard M. Golomb
Counsel for Plaintiff Ronald Kovler

DATED: May 22, 2014

/s/ C. Lance Gould
C. Lance Gould
Counsel for Plaintiffs Brent Matthew Scott and
Matthew Knowles

Filer's Attestation: Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, Whitty Somvichian hereby attests that concurrence in the filing of this document has been obtained.